

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.34056 of 2017

and

WMP Nos.37783 to 37785 of 2017

P.Sivakumar

...Petitioner

.Vs.

1.The Joint Registrar of Co-operative Societies,
Thiruvannamalai Region,
Thiruvannamalai-606 604,
Thiruvannamalai District.

2.The Deputy Registrar of Co-operative Societies,
Thiruvannamalai Circle,
Thiruvannamalai-606 604,
Thiruvannamalai District.

3.The President,
Thiruvannamalai Revenue Divisional
Revenue Village Assistant Co-operative
Thrift and Credit Society Ltd., V.T.751,
No.15, A.S.Complex, Gandhi Nagar,
Thiruvannamalai-606 601.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records relating to the impugned order passed by the 2nd respondent in his proceedings Na.Ka.2996/2017 Sa.Pa, dated 27.11.2017 and quash the same.

For Petitioner : Mr.C.Prakasam

For Respondents: Mr.L.P.Shanmugasundaram
Special Government Pleader
(Co-operatives)

O R D E R

The order of the second respondent dated 27.11.2017 is under challenge in this writ petition.

2.The order dated 27.11.2017 as issued by the Deputy Registrar of Co-operative Societies, Thiruvannamalai for the purpose of conducting an inspection in respect of the affairs of the Co-operative Society under Section 82 of the Tamil nadu Co-operative Societies Act, 1983. The Competent Authority/the Deputy Registrar of Co-operative Societies on receipt of certain informations in respect of the affairs of the Thiruvannamalai Revenue Divisional and Revenue Village Assistant Co-operative Thrift and Credit Society Limited passed an ordered for the purpose of conducting an inspection under Section 82 of the Co-operative Societies Act, 1983. It is a statutory inquiry ordered by the Competent Authority, and the writ petitioner being an employee cannot have any locus standi or grievance in respect of conducting of an inspection under the provisions of the Act Chapter IX of the Tamil Nadu Co-operative Societies Act, 1983 speakings about, inquiry, inspection, investigation, surcharge and supersession. Section 80 speaks about audit to be conducted in respect of the accounts of the Co-operative Societies. Section 81 of the Act speaks about inquiry. Section 82 stipulates about inspection and investigation, which reads as under:

"The Registrar may, of his own motion or on the application of a creditor of a registered Society inspect or investigate or direct any person authorised by him in this behalf by general or special order in writing to inspect the affairs of the registered Society in general or to investigate into any alleged misappropriation, fraudulent retention of any money or property, breach of trust, corrupt practice or mismanagement in relation to that Society or into any particular aspect of the working of that Society and the Registrar or the person so authorised shall have all the powers of the Registrar when holding an enquiry under Section 81: "

3.Therefore, it is a statutory inquiry ordered for the purpose of ascertaining the administrative affairs of Co-operative Societies. Such inquiries are required for the purpose of controlling the affairs of the Co-operative Societies in this State. After conducting an enquiry under Section 81 of the Act, the inquiry Officer has to submit a

report to the Deputy Registrar of the Co-operative Societies. If any misappropriation, allegations or irregularities are found, then alone the Competent Authorities have to initiate further action based on the final report. If any enquiry report is submitted, then there is a possibility of initiating actions for illegalities, misappropriations or fraudulent transactions in a Co-operative Society. In the present case on hand, the Deputy Registrar of Co-operative Societies had initiated action for conducting an inspection in the third respondent Society. Such an order passed invoking Section 82 for conducting statutory inspections cannot be construed as grievance to the writ petitioner. Thus, the writ petitioner has to co-operate for the conduct of the inspection and investigation under Section 82 of the Tamil Nadu Co-operative Societies Act, 1983. Contrarily he cannot move a writ petition for the purpose of quashing the entire inspection and investigation to be conducted, and to verify the administrative affairs of a Co-operative Society.

4.The learned counsel appearing on behalf of the writ petitioner Mr.C.Prakacam would strenuously contend that the inspection and investigation under Section 82 is ordered by the Deputy Registrar for the purpose of verifying the salary details of the writ petitioner and there is an intention to reduce the same. This Court is of an opinion, that the inspection and investigation is a statutory power provided to with the Registrar, and such power has to be exercised in order to conduct the enquiry as a whole on the entire affairs of the Co-operative Society, and its administration ought to be inspected at the time of conducting statutory inspection and investigation. In the present case on hand, the Registrar need not restrict the enquiry into a single file, and in respect of any other file also investigation can be conducted, if there is any illegal transactions, misappropriation or false transactions and appropriate legal actions are to be taken against all the persons concerned.

5.In this view of the matter, this Court is of an opinion, that the challenge of an order passed by the Deputy Registrar of Co-operative Societies invoking the powers under Section 82 of the Tamil Nadu Co-operative Societies Act, 1983, cannot be challenged and it is a statutory inspection and investigation to be conducted based on an opinion the Registrar, and the writ petitioner, in his capacity, as an employee cannot challenge the same, as he is not aggrieved from and out of such investigation and orders. If any adverse order is passed against the writ petitioner then alone the cause of action would arise for filing the appropriate application. The petitioner has not established his case, as of now, and therefore, the writ petition is devoid of merits and stands dismissed. However,

there shall be no order as to costs. Consequently, the connected miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

KP

To

- 1.The Joint Registrar of Co-operative Societies,
Thiruvannamalai Region,
Thiruvannamalai-606 604,
Thiruvannamalai District.
- 2.The Deputy Registrar of Co-operative Societies,
Thiruvannamalai Circle,
Thiruvannamalai-606 604,
Thiruvannamalai District.
- 3.The President,
Thiruvannamalai Revenue Divisional
Revenue Village Assistant Co-operative
Thrift and Credit Society Ltd., V.T.751,
No.15, A.S.Complex, Gandhi Nagar,
Thiruvannamalai-606 601.

+1cc to Mr.C.PRAKASAM Advocate, S.R.No. 27653
+1cc to Mr.L.P.SHANMUGASUNDARAM, Advocate, S.R.No. 27852
+1cc to the Government Pleader, S.R.No. 28077

सत्यमेव जयते

W.P.No.34056 of 2017

NM(CO)
TR(03/05/2018)

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